

## **SEATTLE PUBLIC UTILITIES**

### **NOTICE OF PROPOSED DIRECTOR'S RULE**

This notice is hereby given for a proposed Seattle Public Utilities Director's Rule.

SPU Director's Rule DR-2011-006, Yellow Pages Opt-Out Registry

Director's Rule DR-2011-006 provides publishers/distributors of yellow pages phone books with performance standards for compliance with the City's yellow pages opt-out registry, including requirements for publicizing the registry on yellow pages phone books, and guidance on licensing, reporting and fee payment schedules.

For a complete description of the proposed Director Rule see the full contents of the rule listed below:

Interested individuals may present data, review or comments concerning the proposed rule to Seattle Public Utilities in writing. SPU will accept comments for 14 days from the publication of this notice.

All written responses should be sent or delivered to:

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SPU DR 2011-006, Yellow Pages Opt-Out Registry

#### **1. PURPOSE**

This rule provides direction to distributors of yellow pages phone books in Seattle regarding the requirements placed on yellow pages phone book distribution by Ordinance 123427, which established Seattle's yellow pages phone book Opt-Out Registry. Specifically, this rule sets performance standards for distributors of yellow pages phone books responding to opt-out requests made through the Opt-Out Registry, defines how distributors shall publicize the Opt-Out Registry on the covers and inside pages of yellow pages phone books delivered in Seattle, and describes reporting and registry support fee payment requirements.

#### **2. REFERENCES**

- This rule implements Ordinance 123427 and sections of Chapter 6.255 of the Seattle Municipal Code.

- Policy direction for Ordinance 123427 lies in Resolution 30990, the Zero Waste Resolution, which reaffirmed the City's 60 percent recycling target along with a call for greater waste reduction efforts.
- Overall policies directing waste prevention and recycling are contained in SPU's 2005 Comprehensive Plan Amendment, "On the Path to Sustainability," and in RCW 70.95.010 which establishes waste reduction as the state's highest priority for the management of solid waste.

### 3. DEFINITIONS

The definitions in Ordinance 123427 are incorporated in this rule by reference.

### 4. RULE

#### A. Exceptions

No portion of this rule applies to businesses exempt under SMC 6.255.035; local telephone exchanges required to deliver phone books under WAC 480-120-251; businesses or organizations excluded by definition in SMC 6.255.025, subsections B and C relating to membership organizations; nor organizations annually distributing fewer than four (4) tons of yellow pages phone books within the city limits of Seattle.

#### B. Performance Standards

1) The purpose of the Opt-Out Registry is to provide distributors of yellow pages phone books with a timely, accurate list of the addresses of those residents and businesses who have stated their wishes not to receive some or all yellow pages phone book deliveries. Distributors are required by ordinance to honor these requests. SMC 6.255.090 D. Failure to comply with Ordinance 123427 may result in civil penalties of \$125 per violation (SMC 6.255.140). For purposes of assessing performance and enforcing the requirements of Ordinance 123427, the Director of Seattle Public Utilities will consider seeking civil penalties whenever the Director determines that the number of complaints of wrongful distribution exceeds one-half of one percent (0.5%) of the number of residents and businesses who filed timely opt-out requests with the Registry.

2) In cases where complaints exceed the threshold of one-half of one percent (0.5%), the City or the City's Opt-Out Registry provider on behalf of the City shall forward for the distributor's review a complete list of the valid complaints underlying the apparent violation.

3) Distributors may contest any and all of the complaints alleged by the City in writing or by meeting with the director of the Solid Waste Division or designee. If disputed claims remain after these steps, distributors may appeal to the director of Seattle Public Utilities.

4) To be valid, a complaint alleging improper delivery must be based on an opt-out request filed with the Opt-Out Registry 30 or more days prior to the first day of a distributor's delivery cycle and the Opt-Out Registry must contain data substantiating this.

#### C. Timing of Distributor Download/Reading of Opt-Out Registry Information

1) Distributors shall download information from the Opt-Out Registry so that all opt-out requests filed 30 or more days prior to the start of annual distribution are incorporated into the

database or instructions to contractors or employees from which deliveries are made (SMC 6.255.090).

2) Immediately prior to the download required no more than 30 days before annual distribution begins, yellow pages phone books distributors shall provide the City's Opt-Out Registry with a list of all opt-out requests for City of Seattle addresses directly received through the distributors' opt-out systems in a form capable of automated entry into the City's Opt-Out Registry. The combined files will then form the basis for tracking resident and business complaints. Unless prohibited by law, distributors shall amend their privacy policies to permit this data sharing beginning with customer requests received in 2011.

#### D. Stop-delivery Information to be Provided on Yellow Pages Book Cover

1) Beginning April 1, 2011, on all yellow pages phone books delivered in Seattle distributors must devote cover space of no less than three (3) square inches to informing recipients of the Opt-Out Registry and how to access it. The text shall (a) be in typeface acceptable to publishers using a font of 14 points or greater; (b) advise Seattle residents that they may stop future deliveries of any yellow pages directory by using the City of Seattle opt-out registry; (c) identify the City of Seattle opt-out registry website address; and (d) refer to a specific page in the Community Information section where a phone number, address and information in other languages may be found. Distributors may also include in this space opt-out information for those outside the City of Seattle receiving the same edition of a yellow pages phone book.

2) On the first or other inside page in the Community Information section of all yellow pages phone books delivered in Seattle, distributors must devote no less than a total of twelve (12) square inches to information about the City's yellow pages Opt-Out Registry in English, Spanish, Vietnamese, Chinese, Somali, Tagalog, and Korean. The text shall (a) use a typeface and font size typical of the Community Information section; (b) advise Seattle residents that they may stop future deliveries of any yellow pages directory by using the City of Seattle opt-out registry; (c) identify the City of Seattle opt-out registry website address; (d) state the City of Seattle opt-out registry phone number; and (e) state the City of Seattle opt-out registry postal address. For yellow pages phone books printed entirely in a language other than English, translations are not required.

3) The space required for Opt-Out Registry messaging cannot be used for any recycling and/or recycled content messages, or any other messages which may be desired by the distributor.

#### E. Reporting Forms and Timing of Payments

1) Upon initial application for a yellow pages phone books distributor's license, applicants shall submit a report to SPU showing the number and tonnage of yellow pages phone books delivered in the city during the previous calendar year. No per-book fee will apply to deliveries made in 2010 or before.

2) No more than 45 days following the end of a yellow pages phone book distributor's annual delivery cycle beginning with deliveries occurring in 2011, the distributor shall submit a preliminary report to SPU showing the number of yellow pages books distributed and their total tonnage and, based on the number of yellow pages books delivered, remit to the City all fees due. In cases where publishers acting on behalf of WUTC-regulated local exchange companies

bind "white pages" and yellow pages directories in the same volume, publishers need report only the total tonnage of the yellow pages portion.

3) Applicants for renewal of yellow pages phone books distributor's licenses shall submit by March 31 of each year a final report to SPU showing the number and tonnage of yellow pages phone books delivered in the city during the previous calendar year. Any unpaid fees or adjustments to fees are also due or, if in favor of the distributor, may be invoiced at this time. The report and all fees remaining due for the previous year's distribution must accompany the license renewal application.

4) The fee charged for support of the City's yellow pages Opt-Out registry is fourteen cents per yellow pages book delivered.

5) Report forms will be supplied by the City's Department of Finance and Administration